

Amendment No. 1 to SB2279

Stanley
Signature of Sponsor

AMEND Senate Bill No. 2279

House Bill No. 2316*

by adding the word "with" to the amendatory language of Section 5 of the bill, to the subsection designated therein as (b), in between the language "in accordance" and "§ 45-5-202(c)" so that it reads "in accordance with § 45-5-202(c)".

AND FURTHER AMEND by deleting from the amendatory language of Section 6 of the bill, the language of the subdivision designated therein as (a)(4), and by substituting instead the following language:

(4) The registration of a mortgage loan originator under this section shall expire without further notice or process upon either of the following occurrences:

(A) If the mortgage loan originator ceases providing services for the affiliated registrant at the office listed in the registration form; or

(B) On December 31, 2009, unless between November 1, 2009 and December 31, 2009 the individual files an application through the Nationwide Mortgage Licensing System and Registry for a mortgage loan originator license under title 45, chapter 13, part 3, pays all licensing fees, and submits fingerprints for a criminal background check. If the preceding is timely accomplished, the registration shall remain effective until such time as the commissioner has acted on the licensure application, but in no event shall the registration be valid after July 30, 2010. If the licensure application is approved, the license shall be issued for calendar year 2010.

AND FURTHER AMEND by adding the following language to the amendatory language of Section 6 of the bill, to the end of the subsection designated therein as (b):

A mortgage loan originator sponsorship does not terminate if the mortgage loan originator changes from one (1) office of the sponsoring registrant to another registered

office of the same company. Upon any change in the mortgage loan originator's office, the sponsoring registrant shall notify the commissioner in writing within fourteen (14) days of the change.

AND FURTHER AMEND by deleting from the amendatory language of Section 6 of the bill, the language of the subsection designated therein as (d), and by substituting instead the following language:

(d) The sponsoring registrant shall ensure that each application for a residential mortgage loan contains the name and registration number of the registrant, as well as the name, signature, and license number of the mortgage loan originator who provided origination services with respect to the loan. The registrant shall also ensure that the registrant's records pertaining to the residential mortgage loan contain the unique identifier (if different from the license number) of each mortgage loan originator that provided services with respect to the loan.

AND FURTHER AMEND by adding the following language to the amendatory language of Section 8 of the bill, as a new appropriately designated subdivision to the section designated therein as Section 45-13-105:

(_) "Loss mitigation specialist" means an individual employed by a mortgage lender or mortgage loan servicer licensed under this chapter, or by a registrant authorized to make residential mortgage loans under the Industrial Loan and Thrift Companies Act compiled in title 45, chapter 5, whose activities are confined to the negotiation of terms of an existing residential mortgage loan owned or being serviced by that licensee or registrant for purposes of modifying the terms of the loan, such as by reducing the interest rate or extending the term of the loan, when such modification is done for purposes of avoiding or curing default; provided, that "negotiates terms of an existing residential mortgage loan" as used herein shall not include the negotiation of a refinancing of the loan.

AND FURTHER AMEND by deleting from the amendatory language of Section 8 of the bill, subsection (c) of the section designated therein as Section 45-13-106, and by substituting instead the following language:

(c) A mortgage loan originator holding a valid registration certificate may extend the authority of the certificate past December 31, 2009 by filing between November 1, 2009 and December 31, 2009 an application for a license under part 3 of this chapter through the Nationwide Mortgage Licensing System and Registry, paying all licensing fees, and submitting fingerprints for a criminal background check. If the preceding is timely accomplished, the registration certificate shall remain valid until such time as the commissioner has acted on the licensure application, but in no event shall the certificate be valid after July 30, 2010. If the licensure application is approved, the license shall be issued for calendar year 2010. Any mortgage loan originator timely filing a licensure application under this subsection shall be considered to be "sponsored" for purposes of part 3 of this chapter by the mortgage lender or mortgage loan broker named in the registration certificate, upon any successive licensure. If a mortgage loan originator does not timely comply with the licensure application requirements of this subsection, the registration certificate shall expire without further notice or process on December 31, 2009. A mortgage loan originator holding a valid registration certificate under this subsection shall not be in violation of the licensing requirements under part 3 of this chapter for origination services performed for or on behalf of the mortgage lender or mortgage loan broker named in the certificate; provided, however, that the registration certificate shall expire without further notice or process if the mortgage loan originator provides origination services for a person other than the one named in the registration certificate.

AND FURTHER AMEND by adding the following provisions to the amendatory language of Section 8 of the bill, as new appropriately designated subsections of the section designated therein as Section 45-13-301:

(_) Any individual acting as a loss mitigation specialist shall not be required to comply with the licensing requirements of this section until July 30, 2011, or such other date as may be determined by the commissioner with the approval or consent of the United States department of housing and urban development. A loss mitigation specialist may refer a mortgagor to a mortgage loan originator for purposes of refinancing the residential mortgage loan without the requirement of a license under this part, provided that the loss mitigation specialist does not receive any compensation or gain for the referral, and also provided that the referral is made in accordance with any applicable state and federal law.

(_) A mortgage loan originator license is not required for any individual performing the activities of a manufactured home retailer or a dealer of modular building units, provided that:

(1) The individual either holds or is employed by a person who holds a manufactured home retailer license or a license to act as a dealer of modular building units, which has been issued by the commissioner of commerce and insurance under title 68, chapter 126;

(2) The individual does not in any way offer or negotiate terms of a residential mortgage loan (including by counseling with respect to such terms);

(3) Neither the individual, nor the employing manufactured home retailer or dealer of modular building units, receives compensation or other gain from a mortgage lender, mortgage loan broker, or mortgage loan originator, or by any agent of such mortgage lender, mortgage loan broker, or mortgage loan originator; and

(4) This subsection shall not apply if the United States department of housing and urban development determines by guideline, rule, interpretative letter, or otherwise, that such individuals must be licensed under the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, or that this subsection is otherwise inconsistent with such Act.

AND FURTHER AMEND by deleting the period at the end of the last sentence of the amendatory language of Section 8 of the bill designated therein as Section 45-13-302(f), and adding the language “, or to deny renewal of such license.”.

AND FURTHER AMEND by adding the following language to the amendatory language of Section 8 of the bill, to the end of the subsection designated therein as Section 45-13-303(b):

A mortgage loan originator sponsorship does not terminate if the mortgage loan originator changes from one (1) branch office of the sponsoring mortgage lender or mortgage loan broker to another branch office of the same company. Upon any change in the mortgage loan originator's office, the sponsoring mortgage lender or mortgage loan broker shall notify the commissioner in writing within fourteen (14) days of the change.

AND FURTHER AMEND by deleting from the amendatory language of Section 8 of the bill, subsection (d) of the section designated therein as Section 45-13-303, and by substituting instead the following language:

(d) The sponsoring mortgage lender or mortgage loan broker shall ensure that each application for a residential mortgage loan contains the name and license number of the mortgage lender or mortgage loan broker, as well as the name, signature, and license number of the mortgage loan originator who provided origination services with respect to the loan. The mortgage lender or mortgage loan broker shall also ensure that its records pertaining to the residential mortgage loan contain the unique identifier (if different from the license number) of each mortgage loan originator that provided services with respect to the loan.

AND FURTHER AMEND by deleting from the amendatory language of Section 8 of the bill, the language under the section designated therein as Section 45-13-308, and by substituting instead the following language:

Notwithstanding any provision in this chapter or in the Industrial Loan and Thrift Companies Act, compiled in title 45, chapter 5, to the contrary, the commissioner is authorized to issue a provisional mortgage loan originator license to any individual who

has not completed the pre-licensing education requirements set forth in § 45-13-304 or passed a written test that meets the test requirement described in § 45-13-305; provided, that such individual meets all other requirements for a license under this part, and also provided that no provisional mortgage loan originator license shall be issued after or be valid after July 30, 2010. A provisional mortgage loan originator license shall for all purposes be considered a mortgage loan originator license issued under this part, except that a provisional license shall expire on July 30, 2010 unless the individual holding such license has by such date completed the pre-licensing education requirements set forth in § 45-13-304 and passed a written test that meets the test requirement described in § 45-13-305. If the preceding is timely accomplished, and so long as the individual has furnished fingerprints to the Nationwide Mortgage Licensing System and Registry if requested to do so under § 45-13-302(f), the “provisional” nature of the license shall be removed, and the license shall not expire until the end of the calendar year in which the last of all such requirements have been met. Subject to the July 30, 2010 expiration date, a provisional mortgage loan originator license issued in 2009 may be renewed for 2010 pursuant to § 45-13-306 without satisfying the annual continuing education requirements described in § 45-13-307.

AND FURTHER AMEND by deleting the first sentence of Section 11 of the bill and by substituting instead the following language:

Sections 1, 2, 3, 4, 6, 7, 10 and 11 of this act shall take effect upon becoming a law, the public welfare requiring it.